

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

SUMMARY ORDER

THIS SUMMARY ORDER WILL NOT BE PUBLISHED IN THE FEDERAL REPORTER AND MAY NOT BE CITED AS PRECEDENTIAL AUTHORITY TO THIS OR ANY OTHER COURT, BUT MAY BE CALLED TO THE ATTENTION OF THIS OR ANY OTHER COURT IN A SUBSEQUENT STAGE OF THIS CASE, IN A RELATED CASE, OR IN ANY CASE FOR PURPOSES OF COLLATERAL ESTOPPEL OR RES JUDICATA.

At a stated term of the United States Court of Appeals for the Second Circuit, held at the Daniel Patrick Moynihan United States Courthouse, 500 Pearl Street, in the City of New York, on the 23rd day of August, two thousand and six.

PRESENT:

HON. CHESTER J. STRAUB,
HON. ROSEMARY S. POOLER,
HON. ROBERT D. SACK,

Circuit Judges.

MICHAEL NESHEWAT,

Plaintiff-Counter-Defendant-Appellee,

- v -

No. 05-1954-cv

MAURICE J. SALEM, f/k/a Maurice J. Neshewat,

Defendant-Counterclaimant-Appellant,

CLODIA A. SALEM,

Defendant-Appellant.

Appearing for Appellants: Maurice J. Salem, Palos Heights,
IL. (pro se)

Appearing for Appellee: Paul J. Goldstein, Goldstein &
Metzger, LLP, Poughkeepsie, NY.

Appeal from a judgment of the United States District Court for the Southern District of New York (William C. Conner, Judge).

UPON DUE CONSIDERATION, it is hereby ORDERED, ADJUDGED and DECREED that the judgment of the district court be, and it hereby is, AFFIRMED.

Defendants-appellants Maurice J. Salem ("Salem") and Clodia A. Salem appeal from the judgment of the district court, which was based upon an order entered April 11, 2005, dismissing Salem's counterclaim, granting summary judgment to the plaintiff, and enjoining Salem from filing or prosecuting, without leave of the court, actions in federal district court against the plaintiff or his counsel seeking review or relief from a default judgment entered against Salem in the Supreme Court of Dutchess County, New York in 1999.

We affirm for substantially the reasons stated by the district court. Because the bulk of the claims Salem previously brought in federal district court were dismissed on the basis of the Rooker-Feldman doctrine, see Salem v. Paroli, 79 Fed. Appx. 455 (2d Cir. 2003), and "Rooker-Feldman goes to subject-matter jurisdiction," Hoblock v. Albany County Bd. of Elections, 422 F.3d 77, 83 (2d Cir. 2005), and therefore such a dismissal "is not an adjudication of the merits, and hence has no res judicata effect," St. Pierre v. Dyer, 208 F.3d 394, 400 (2d Cir. 2000), we have some doubt as to whether the district court's dismissal of Salem's counterclaim should have been on the basis of res judicata. But we conclude that it should have been dismissed in any event as barred by Rooker-Feldman. See Hoblock, 422 F.3d at 85; Dist. of Columbia Ct. of App. v. Feldman, 460 U.S. 462, 476 (1983); Rooker v. Fidelity Trust Co., 263 U.S. 413, 416 (1923).

We have considered appellants' remaining arguments and conclude that they are without merit.

For the foregoing reasons, we hereby AFFIRM in every respect the judgment of the district court.

FOR THE COURT:
Roseann B. MacKechnie, Clerk

By: _____